

DECISION



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**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-200268.2

DATE: July 1, 1981

MATTER OF: Hispano American Corporation--
Reconsideration

DIGEST:

1. Since complainant does not advance any additional facts or legal arguments which indicate that earlier decision was erroneous, prior decision denying complaint is affirmed.
2. Request for conference made on reconsideration is granted only where matter cannot be promptly resolved without conference.

Hispano American Corporation (HAC) requests reconsideration of our decision in Hispano American Corporation, B-200268, March 17, 1981, 81-1 CPD 201, which concerned the award of contracts by the transit authorities of Seattle, Washington (METRO) and Portland, Oregon (TRI-MET) for buses. The contracts were awarded pursuant to grants administered by the Urban Mass Transportation Administration (UMTA), and were eighty-percent funded by UMTA.

HAC initially filed its complaint with UMTA, which found no merit to the allegations and concurred in the contract awards. We found this concurrence to be reasonable and denied the complaint.

HAC's complaint set forth eight allegations, all of which were addressed in our March 17 decision. Those allegations can be summarized as follows: METRO and TRI-MET engaged in certain specified practices and procedures which restricted competition and discriminated against small and minority businesses; neither METRO nor UMTA fully complied with certain provisions of the UMTA External

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Operating Manual requiring that a grantee obtain UMTA concurrence prior to making award to other than the low bidder and the awardee's product did not qualify as a "domestic end product" under the Buy America provision in the solicitation.

HAC now alleges that this Office failed to review the entire case de novo and failed to consider UMTA's actions as a "third party participant" in the contractual actions taken by the grantee. HAC asks that our review of the matter on reconsideration cover all preaward actions and activities, including the solicitation of offers, and that we review the entire contract file and all correspondence submitted by all parties.

In our public notice entitled "Review of Complaints concerning Contracts under Federal Grants," 40 Fed. Reg. 42406, September 12, 1975, we advised that our Office would undertake reviews concerning the propriety of contract awards made by grantees in furtherance of grant purposes upon the requests of prospective contractors. We undertake such reviews for the limited purpose of fostering grantee compliance with grant terms, agency regulations, and applicable statutory requirements. Sanders Company Plumbing and Heating--Reconsideration, B-196075.3, March 25, 1980, 80-1 CPD 217. However, while we will recommend corrective action when we think the determinations reached are not rationally founded, Copeland Systems, Inc. 55 Comp. Gen. 390 (1975), 75-2 CPD 237, the grantor agency in administering its grants has the primary responsibility to review its grantees' procurement decisions to assure that the requirements for competitive procurement have been met. Sanders Company Plumbing and Heating--Reconsideration, supra.

In rendering our decision in response to HAC's complaint, we fully considered the specific allegations raised in light of these principles. Based on this review, we found no reason to object to the actions taken by the grantees or to UMTA's concurrence therein.

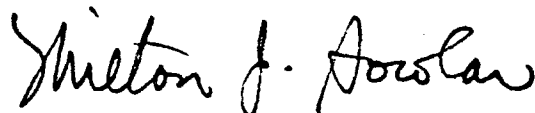
Further, while HAC apparently believes that we did not consider all information relevant to its complaint, we in fact thoroughly reviewed all information contained in UMTA's report on the matter as well as a number of supplemental documents supplied by UMTA and HAC. UMTA's report was, of course, directed to the issues specifically

raised by HAC in its complaint and thus did not contain the entire contract file or information covering all pre-award activities, and we did not find it necessary to require the submission of such information.

In that respect, it should be noted that our public notice, supra, requires that complaints provide a full statement of the basis upon which it is believed that proper contracting procedures have not been followed. While this Office does not consider itself confined to address only the issues raised by a party to a complaint where there are procurement deficiencies which are obvious on the face of the record, we decide matters on the written record only, and do not conduct investigations for the purpose of determining whether a complainant has been wronged in some unspecified manner. Rather, grant complaints are reviewed because we believe it is useful to "audit by exception" using specific complaints as vehicles through which to review contracting practices and procedures. Sanders Company Plumbing and Heating, 59 Comp. Gen. 243 (1980), 80-1 CPD 99.

Aside from questioning the manner in which we reviewed its complaint, HAC has presented no evidence demonstrating any error of law or any information not previously considered in our original decision. Accordingly, our prior decision is affirmed. See Sanders Company Plumbing and Heating--Reconsideration, supra.

HAC has requested that it be granted a hearing on the issues raised in its request for reconsideration. In this regard, our Office does not conduct formal hearings on grant complaints. In appropriate cases, we do afford complainants the opportunity to present their positions at an informal meeting or "conference" similar to that provided for under our Bid Protest Procedures. See 4 C.F.R. § 20.7 (1980). Such a conference was in fact held in connection with HAC's original complaint. Requests for conferences on reconsideration, however, are granted only where the matter cannot be promptly resolved without a conference. See Dubie-Clark Company, Patterson Pump Division--Request for Reconsideration, B-189642, April 6, 1978, 78-1 CPD 274. In our judgment, this is not such a case.



Acting Comptroller General
of the United States